

Kristi Cahoon Kelly

From: Leonard Bennett [lenbennett@clalegal.com]
Sent: Friday, September 21, 2012 4:08 PM
To: Ramana, Anand V.
Cc: Andrew Guzzo; Kristi Cahoon Kelly; Susan Rotkis; Pumphrey, Brian E.; Vicki Ward; Olga Macias
Subject: Re: Adelina C. Rocabruna, et al. v. Bank of America, N.A., Civil Action No.: 1:12-cv-00506 (LMB/TCB)

Anand -

We still need a date for the 30b1 of the "Management employee most responsible for the supervision of the Bank of America ACDV operators."

This is not a 30b6 topic and the person so responsible is not Sandra Evans.

Andrew will provide you today a service copy of the deposition notice for such person set for two weeks out, but of course will try to accommodate your schedule.

Len

On Sep 21, 2012, at 3:07 PM, Ramana, Anand V. wrote:

Andrew,

Thanks for the notice. I'll take a look.

We can confirm October 2 for Bouchane. Please get back to me ASAP on Ms. Bechtold because we need to give 14 days advance notice, unless she is willing to waive that. If we don't hear back by Monday at noon, we'll notice her for October 8.

Thanks,

Anand V. Ramana
McGuireWoods LLP
2001 K Street, NW
Washington, DC 20006
202.857.1734 (Direct Line)
202.828.2973 (Direct Facsimile)
aramana@mcguirewoods.com

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From: Andrew Guzzo [mailto:aguzzo@siplfirm.com]
Sent: Friday, September 21, 2012 2:22 PM
To: Ramana, Anand V.; Kristi Cahoon Kelly; 'Leonard Bennett'



Anand,

Attached is the 30(b)(6) deposition notice you requested. Please let us know if this changes your position on any of your objections. Additionally, we are still waiting to hear from Ms. Bechtold, but October 2 for Bouchane is fine.

Andrew J. Guzzo, Esq.
Surovell Isaacs Petersen & Levy PLC
4010 University Drive, Second Floor
Fairfax, Virginia 22030
Direct: 703.277.9766
Fax: 703.591.9285

Please do not read, copy or disseminate this communication unless you are the intended addressee. This e-mail communication contains confidential information intended only for the addressee. If you have received this communication in error, please call me at 703-251-5400 or e-mail me immediately, and destroy all copies of the communications. Thank you.

From: Ramana, Anand V. [mailto:ARamana@mcguirewoods.com]
Sent: Thursday, September 20, 2012 2:57 PM
To: Kristi Cahoon Kelly; 'Leonard Bennett'
Cc: Susan Rotkis; Pumphrey, Brian E.; Andrew Guzzo; Vicki Ward; Olga Macias
Subject: RE: Adelina C. Rocabruna, et al. v. Bank of America, N.A., Civil Action No.: 1:12-cv-00506 (LMB/TCB)

Kristi,

Thanks for the email. I'll respond to each of your points in turn.

- (1) We haven't had a chance to amend our 26(a)(1) disclosures, but we've told you we would and will identify Evans in Ms. Cleversy's stead. It does not appear to be worthwhile to notice someone who will not be testifying. We will move for a protective order if we need to, but this should not be an issue the Court needs to address.
 - (2) No one knows who Urshay Hill is, so of course we don't represent her. Please copy us on any subpoena you issue. As for "Sierra" and "Jennifer," I'm sure you understand that without their last names a global BOA search for them would not be worthwhile. If you have some other identifying characteristic that can assist our search (like whatever contact information you will use to serve subpoenas on them) please let us know and we can try to cross-reference that data to the first names.
 - (3) You know that I did not say that Bouchane was available on those dates. I said I would ask him about his availability those dates that we mutually agreed to, which I have, and he has said that he is available on Oct. 2. If you are unable to do October 2 now, I can ask him about October 3. Just let me know.
 - (4) As we have repeatedly told you, Ms. Evans is not reachable right now so we cannot agree to October 1. I did not say that she was available, but rather that we would ask her, when she returns to the office, of her availability for 1, 2, 3, and 10. She's out all week, so she has not yet returned to the office. Once she does, we will see when schedules permit and get back to you as soon as possible.
- Discovery opened in July. Without consulting with us on schedules, you noticed the 30(b)(6) deposition about five weeks later for a time that was not convenient for anyone, admittedly including yourselves. The fact is that we cannot commit Ms. Evans to a date until we know her schedule. She returns to the office on Monday.
- (5) Regarding our objections, I sent an email yesterday that stated that the *Berrios* authority you provided appeared to support our position on objections. I asked you to send along the topics from that case so I could make sure. Can you please send those along or otherwise explain why you think Judge Davis' rulings sustaining the same objections we interpose in this case support your position?

(6) As for the Rocabrunas, when we spoke, we agreed that you would look into the 24th and 26th, and I told you that if we did not hear back I would notice them for the 26th. Indeed, we've been discussing Sept. 24, 25, and 26 for weeks. You did not get back to me, so I noticed them for the 26th. It is not until now that we are told that they are not available for another 1-2 weeks. That said, in the interest of cooperation, we will agree to take their depositions on October 4. I will send amended notices of deposition for October 4 within the next 24 hours.

(7) Thank you for accepting service of subpoenas for those individuals. Can you please see if Michelle Bechtold is available on either October 4 or 8? Please let me know by 2pm tomorrow (so we can get the subpoena out 14 days in advance).

Thanks.

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From: Kristi Cahoon Kelly [<mailto:kkelly@siplfirm.com>]
Sent: Thursday, September 20, 2012 11:14 AM
To: Ramana, Anand V.; 'Leonard Bennett'
Cc: Susan Rotkis; Pumphrey, Brian E.; Andrew Guzzo; Vicki Ward; Olga Macias
Subject: RE: Adelina C. Rocabruna, et al. v. Bank of America, N.A., Civil Action No.: 1:12-cv-00506 (LMB/TCB)

Anand,

We spoke on Monday.

In reviewing my notes, you indicated that you would withdraw Janet Cleavenger from your 26a1s as she no longer has knowledge. I have not received this updated 26a1s, so we will be sending a notice for her deposition today. Please confirm that October 3rd or 4th are an agreeable date. If you do not provide an alternative date and time by 3pm today, I will notice it at my preferred date and time today.

Regarding Urshay Hill. You indicated you have no record of her. Since you cannot locate her and your client has no idea who she is, I will assume you do not represent her so I can contact her directly. As I indicated in our call, I am surprised since her notes should be in your client's call notes.

Did you locate Sierra or Jennifer? If not, I will assume you do not represent them and will attempt to contact them directly. If you did, please provide me last known addresses.

You indicated Mr. Buchane was available for a deposition on September 26, October 2, or 3. I will be sending a notice of his deposition today, for October 3rd. I understand he is in Buffalo and will take this telephonically.

Regarding Ms. Evans. You indicated that she would be your 30b6 and is also the 30b1 we requested who had the most knowledge of the supervision of the Indian ACDV facility. We also want to depose her as a 30b1 witness based on her affidavit. We will send the notice for October 1st since you indicated that was a good date for you at our meeting. If you would like to pick the location, please let me know by 3pm today as I will be sending out these notices today.

I understand you have objections to every topic except for one of the 30b6 notice. I went over some of your objections regarding the willfulness, but you indicated you would get back to me by the end of the day about what objections you

Case 1:12-cv-00506-LMB-TCB Document 39-3 Filed 09/28/12 Page 4 of 6 PageID# 435
would withdraw after reviewing the Berrios transcript. You did not withdraw any. If you do not intend to withdraw any objections, that is fine but we will be filing a motion to compel to be heard on September 28th. Please confirm by close of business today, what if any objections you intend to withdraw.

My clients are not available on September 26th. In our call, I indicated I would confirm their availability. I was unable to. Since the 26th does not work, I would propose the 4th, 5th or anytime the week of October 8th.

In our call you also asked whether I would accept service for Julie Rocabruna, Michael Rocabruna, Michelle Bechtold and Kelly Hutchinson. I will accept service for these individuals, but I would need to confirm the dates you would like to depose them on. They work and would require 2 weeks notice.

Thanks,

Kristi Cahoon Kelly
Surovell Isaacs Petersen & Levy PLC
4010 University Drive, 2nd Floor
Fairfax, VA 22030
Tel: (703) 277-9774
Fax: (703) 591-9285
kkelly@siplfirm.com

Please do not read, copy or disseminate this communication unless you are the intended addressee. This e-mail communication contains confidential and/or privileged information intended only for the addressee. If you have received this communication in error, please call me at 703-251-5400 or e-mail me immediately. Thank you.

From: Ramana, Anand V. [<mailto:ARamana@mcguirewoods.com>]
Sent: Wednesday, September 19, 2012 9:29 PM
To: 'Leonard Bennett'
Cc: Kristi Cahoon Kelly; Susan Rotkis; Pumphrey, Brian E.; Andrew Guzzo; Vicki Ward; Olga Macias
Subject: RE: Adelina C. Rocabruna, et al. v. Bank of America, N.A., Civil Action No.: 1:12-cv-00506 (LMB/TCB)

Len,

Thanks for your email. The October dates we reference below are the dates Kristi and I mutually agreed that I would look into when she and I spoke last Friday. As we stated below and last Friday, our 30(b)(6) is not available to confirm dates until Monday because she is out of the office. Again, the 10th is the best bet, but we will see if schedules accommodate either the 1st, 2nd, or 3rd when she returns. Also, my understanding from Friday's discussion is that you preferred to depose the 30(b)(6) in person, and we are looking into bringing her from California to Virginia instead of North Carolina to minimize the burden on you. That said, we are always willing to work things around any prejudice opposing counsel encounters. Please let us know what prejudice you will be suffering as a result of taking her deposition on the 10th (keeping in mind discovery closes on Oct. 18th) and we will do our best to alleviate it. But she is not available on September 26, which is incidentally when your clients have been noticed for deposition, so that is not possible.

Unfortunately, I'm not sure what you are referring to when you say that you are trying to convince us of the deps. Kristi and I hashed out a pretty good plan on Friday to schedule and take depositions and we are just confirming the schedules we discussed in the emails below. If you are more specific I can try to address your concerns.

Thanks,
Anand

From: Leonard Bennett [<mailto:lenbennett@clalegal.com>]
Sent: Wednesday, September 19, 2012 4:14 PM
To: Ramana, Anand V.
Cc: Kristi Cahoon Kelly; Susan Rotkis; Pumphrey, Brian E.; Andrew Guzzo; Vicki Ward; Olga Macias
Subject: Re: Adelina C. Rocabruna, et al. v. Bank of America, N.A., Civil Action No.: 1:12-cv-00506 (LMB/TCB)

We will not wait until October for a dep we noticed over two weeks ago. We will take the dep by phone. Which day next week?

We have also tried to convince you on the deps in the meet and confer process. Without success. We will file our Motion.

Sent from my iPhone

On Sep 19, 2012, at 3:59 PM, "Ramana, Anand V." <ARamana@mcguirewoods.com> wrote:

Kristi,

Thanks for your email. I'll answer each of your questions in turn:

1. The Bank is not aware of any current or former employee with the name of Urshay Hill, so we have no information to provide you. If you can provide us with the last names of the other two people as we discussed last week, we can follow up.

2. We reviewed Barrios transcript. Although it is a bit difficult to follow because we do not have the actual topics and objections before us, we note that all of the objections that we interpose in Rocabruna were sustained by Judge Davis in Berrios. Indeed, Judge Davis sustained all of the disputed objections except two or three, none of which seem to apply to our case. If you believe we are missing something, please let me know and we will revisit this issue. I will also note that, unlike in Berrios, we have told you that we are going to put up a BOA corporate representative for any topics that reasonably relate to the issues in this case, even if we partially objected to the scope of the topics.

3. Ms. Evans is out of town this week, and we will let you know the date for her deposition when she returns next week. We will see if 1, 2, 3, or 10 works, but I would imagine the 10th is the best bet. We will recommend to the Bank that Ms. Evans come to Virginia for her deposition, and will confirm with her when she returns to the office on Monday. As for Bouchane, we are confirming his availability, but it looks like October 2. He's in Buffalo. Please let me know how you want to depose him and we'll do our best to work with you.

Thanks,

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From: Kristi Cahoon Kelly [<mailto:kkelly@siplfirm.com>]
Sent: Wednesday, September 19, 2012 10:15 AM
To: Ramana, Anand V.; Leonard Bennett; Susan Rotkis
Cc: Pumphrey, Brian E.; Andrew Guzzo; Vicki Ward; Olga Macias

Subject: RE: Adelina C. Rocabruna, et al. v. Bank of America, N.A., Civil Action No.: 1:12-cv-00506 (LMB/TCB)

Anand,

You have the wrong email addresses for my co-counsel.

I wanted to follow up on our meet and confer:

Did you ever figure out about Urshay Hill, Sierra or Jennifer? If they no longer work for BofA, can you give us their last know addresses?

Did you review Berrios and decide which objections you can withdraw.

I will let you know the dates for Evans and Buchane by close of business. Did you decide if you will produce Evans in NoVa?

Thanks,

Kristi Cahoon Kelly
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From: Sharp, Alison Y. [<mailto:ayates@mcguirewoods.com>] **On Behalf Of** Ramana, Anand V.

Sent: Tuesday, September 18, 2012 4:57 PM

To: 'lenbennett@cox.net'; 'srotkin@clalegal.com'; Kristi Cahoon Kelly

Cc: Pumphrey, Brian E.

Subject: Adelina C. Rocabruna, et al. v. Bank of America, N.A., Civil Action No.: 1:12-cv-00506 (LMB/TCB)

Attached please find a copy of Bank of America, N.A.'s Notice of Deposition of Plaintiff Adelina C. Rocabruna and Bank of America, N.A.'s Notice of Deposition of Plaintiff Miguel A. Rocabruna in the above-referenced matter.

Thanks,

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